

Applicant claimed the benefit of the filing date of Application Serial Number 09/167,320 now United States Patent 6,224,003, upon the filing of the above identified application on December 27, 2000. The specific claim and reference was made in the specification as filed. This application, 09/167,300, on which Applicant had claimed the benefit of the earlier filing date, had an effective claim filing date of July 2, 1996. This was based upon the claim for the benefit of the filing date made in 09/167,300 to the earlier filing date of Application Serial Number 08/674,404, filed July 2, 1996 now United States Patent Number 5,895,732. Applicant has amended this specification to more clearly set forth that Applicant was entitled to the benefit of the claimed effective filing date of July 2, 1996 of United States Patent 6,224,003.

Turning to the Clough reference cited by the Examiner, 5,601,945, said patent has a publication date of February 11, 1997 which date is later than the effective filing date of July 2, 1996 to which Applicant is entitled and which has been claimed. It is therefore not a reference under 35U.S.C. 102(b). Further the specification disclosing resilient porous products, column 17 of 5,601,945 is identical to the disclosure in the specification of US Patent 5,895,732 column 8, lines 37-62, column 9, lines 1-20 for which inventions applicant has now claimed in the present application. Further, all disclosures of inventions were by the same inventor, Clough.

Applicant has reviewed the requirements for claiming the benefit of the filing date of a prior application and submits that Applicant has satisfied all requirements. Thus, all of the applications for which Applicant is claiming the benefit of the filing date have always had copendency as between applications claiming the benefit of such filing dates. In addition, the inventor is the same in all applications. Thus, the present application had

cendency before the patenting, abandonment or termination of proceedings of the first filed application for which Applicant claims the benefit of the filing date. Further, Applicant in the filing of the present application made a specific reference to and claimed the benefit of the filing date of the earlier applications. Attention is also drawn to the fact that the present application is a divisional application of 09/167,320. On February 8, 2000, a restriction requirement was made and Applicant elected Claims 1-15 drawn to the process. The present Divisional application was filed later in response to this restriction requirement. As set forth in Amendment A, the Examiner objected to Applicant's claim for the benefit of the earlier filing date of Application No. 09/167,320 filed October 6, 1998 because all of the then present claims contained material not previously disclosed in the prior application. Applicant carefully reviewed the prior Application No. 09/167,320 and amended Claims 1, 4, 5, 9, 11, 16 and 18 and canceled Claims 12 and 19 in order to have the claimed invention fully supported by the specification in Application No. 09/167,320. Claims that were not amended and new Claims 21 and 22 were fully supported by the specification in Application No. 09/167,320. In view of those amendments to the claims, Applicant submits that the claims are entitled to the benefit of the filing date of the parent application, and therefore is appropriately called a division as is set forth in the specification.

In view of the above remarks Applicant requests the Examiner to withdraw the rejection of the above claims under 35 U.S.C. 102(b)

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In conclusion, Applicant submits that the present claims are patentable and allowable under 35 U.S.C. 102 (b) and respectfully requests the Examiner to forward this application to issuance at an early date.

Should any matters remain unresolved, the Examiner is requested to call (collect) Applicant's attorney at the numbers given below.

Attached hereto is a marked up version of the changes made to the claims by the current amendment.

Respectfully submitted,

Thomas J. Clough  
Registration No. 22337  
Attorney for Applicant  
P.O. Box 718  
Pismo Beach, California 93448  
(805) 481-3750  
Facsimile (805) 481-3452

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Commissioner of Patents and Trademarks, Washington, D.C. 29231 on or before 5/26/03.

Dated this 28<sup>th</sup> day of May, 2003.

Thomas J. Clough, Attorney